City of San Jose Comments on Draft Watershed Action Plan (March 2003)

Date: April 21, 2003

Response to Comments appear as Highlighted Text

- The new organization of the Action Plan flows better than the previous draft. Grouping description of the issues with the associated strategic objectives improves the flow of the document.

No response necessary

Substantive Comments

- ES-3 and Chapter 4: Instead of mentioning the C3 provisions, City prefers referring to the new NPDES requirements for new development.

> Executive Summary:
>
> Drainage Systems that Detain or Retain Runoff (Chapter 4).
> The WMI advocates site development designs and drainage system designs that detain or retain runoff where needed to protect streams from erosion and pollutants. Cities, towns, and the County's~~should revise their~~ standards for site development and drainage systems ADD "should encourage practices to minimize runoff entering the stormdrain system or waterways." In areas where increased runoff could cause increased erosion of creek beds and banks, siltation, or other effects on streams, new and rebuilt sites and drainage systems should (where feasible) incorporate features to detain or retain runoff.
>
> To further this objective, the WMI will:
>
> Work with the Santa Clara Valley Urban
> Runoff Pollution Prevention Program (SCVURPPP)
> to facilitate implementation of the ~~C.3. provisions in the Regional Water Quality Control Board for the~~ San Francisco
> Bay Region (RWQCB) storm water discharge permit.

Opinion. Text revised accordingly.

- ES-3 and Chapter 5: Ordinance 83-2 is a contentious issue. Instead of referring to the ordinance, refer to the collaborative process to develop additional stream protection.

Could not find mention of the revision of Ordinance 83-2 that initiated the collaborative process.

- ES-3, Habitat Conservation Plans and chapter 3c2 and 3c3: Instead of using "preserve" or "preserves", "protect" and "protected areas" is less restrictive and more appropriate

Editorial. Text changed to "protect" where it was judged to be more appropriate (especially to match the words in the WMI's mission "to protect and enhance").

- ES-3 and Chapter 7: The effort to expand the wildlife refuge should include the WMI's goal to have endangered species recovery. In addition, the WMI's stakeholders could assist with data sharing and technical support.

Get from Kirsten.

- ES-3 and Chapter 8: The next steps for the WMI are vague and may need additional detail.

Get from Kirsten.

- ES-3 and Chapter 9: The municipalities and the Clean Estuaries Program (CEP) should also be listed as part of the agencies and organizations that should coordinate monitoring and assessment activities.

Opinion. Text revised accordingly.

- ES – 4, 9th paragraph (top of page 11 starts with "The WMI will encourage …"): The list of what the WMI will do in the future is too narrowly focused on stream and flooding issues. Either revise to include all issues, acknowledge the need for a prioritization process, or delete.

Deleted this sentence.

- Chapter 1c2, paragraph at top of page 5, starts with "local agencies typically implement": San Jose has a history of using a watershed approach since the early 1990s, when the Clean Bay strategy was developed. This paragraph does not accurately reflect how agencies in this area used a watershed approach prior to the WMI. It could be revised as follows:

  1c2.

  ADD "In some instances," ~~L~~local agencies ~~typically~~ implement their regulatory compliance programs in a compartmentalized fashion. ~~Under regulatory "command and control," r~~Regulators and permittees alike focus on individual permit provisions. ADD "When this approach is taken," ~~I~~implementation tends to be reactive and piecemeal, rather than embracing broad ecosystem objectives. This ~~by-the-numbers~~ approach is not conducive to new, more scientific analyses of problems, or to new, more creative solutions.

Opinion. Text revised accordingly.

- Chapter 2, third paragraph: The sentence "Fresh water discharged from the largest of the Basin's three wastewater treatment works has affected nearby wetlands, contributing to the conversion of approximately 270 acres from tidal salt marsh to brackish marsh" should be changed. Conversion of salt marsh to brackish marsh near the largest treatment plant's outfall has been attributed to the fresh water flows. Recent studies indicate a number of factors contribute to vegetation types, significant additional salt marsh is forming in the area (180 acres) and no conversion has occurred since 1998. Fresh water discharges from the rivers, streams, and wastewater treatment plants flow into an estuary made up of salt, brackish, and freshwater wetland habitats, most of which was diked and marginalized for salt evaporation and harvesting.

Removed mention of POTWs.

- Chapter 2, summary of chapter 6, second to last paragraph: need to correct error on number of treatment plants. The sentence, stating that fresh water volume from the Plant "may have caused some tidal wetland to convert to brackish marsh, reducing scarce salt marsh habitat" should also state that while some conversion happened in the past relating to freshwater flows and other factors, new salt marsh is now forming. The point should also be made that tidal marsh includes both salt and brackish marsh

types. The USFWS Recovery Plan for the California clapper rail and salt marsh harvest mouse states that "Only through a broad-based program of ecosystem management can these species be recovered and the diversity of habitats maintained that were once part of the system."

Changed # of POTWs from 4 to 3. Removed mention of SJ/SC plant. Added text saying salt marsh is now forming. Added text to end of Section 7c4 saying "Marsh restoration should encompass a broad-based program to restore a variety of tidal marsh habitat, including salt marsh and brackish marsh."

- Chapter 2b, description of chapter nine, last paragraph: Not all pollutants need determination of acceptable amount in animal tissue (e.g. trash), therefore this sentence needs to be corrected.

Revised sentence to read "The sources, fate, transport, and effects of each pollutant must be understood to determine the acceptable amounts found in water, sediment, and/or animal tissue, and to develop reasonable, effective plans for source reduction and clean-up."

- Chapter 4, regulatory corner at the end of the chapter is on C3: see edits to chapter 4 below. In addition, Chapter 4d, see edits below.
- Chapter 5c3: the City of San Jose's Riparian Corridor Policy study was revised in 1999. (also need to change footnote 19 to 1999 edition.)

Factual. Text revised accordingly. Also revised bibliography.

- Chapter 6c: The City was also a partner in the FAHCE process.

Factual. Text revised accordingly.

- Chapter 6c1: last line, first paragraph should be "salt marsh" instead of "wetlands" The second paragraph should be reworded: In response to the 120 mgd flow limit, the City submitted an Action Plan, which in addition to salt marsh mitigation, included indoor water conservation and water recycling. The Action Plan was updated in 1997 in response to flows above 120 mgd average dry weather effluent flow to include additional programs. Since 1998, flows from the Plant have been below 120 mgd. No additional conversion has occurred since 1998 and significant additional salt marsh has formed.

Factual. Text revised accordingly.

- Chapter 7c4, salt marsh harvest mouse, page 63: change "freshwater effluent discharged into the Bay changes marsh vegetation by benefiting plant species that prefer fresh or brackish water …" There are many factors that influence marsh vegetation, including rainfall events and Delta outflows. Instead, include all factors. The link in the note is invalid (include another reference source). Suggested edits: "Third, the remaining marginalized habitats may be further impacted by local freshwater sources into the Bay (i.e., rivers and streams, wastewater treatment plants, rainfall and delta outflows), impact the tidal marsh vegetation by benefiting plant species that prefer fresh or brackish water (like cattail and bulrush) that are not used by the mouse."

Factual. Text revised accordingly. No other source was suggested/found, so footnote was left as is.

- Chapter 7f: change to "a historic" and update with most recent information on salt pond purchase and restoration planning. Escrow closed March 6 and currently

agencies are holding public meetings, doing interim planning, and EIR. Third to last paragraph should also include City of San Jose as a major stakeholder in addition to SCVWD since much of the acreage to be restored is located within San Jose's City limit and within the City's marsh study area.

Factual. Text revised accordingly.

- Chapter 7 should also acknowledge that species need a mosaic of habitats, not only salt marsh, and that focus should be broadly on habitat (including habitat for threatened species) and a mosaic of upland, freshwater, brackish and salt marsh, rather than narrow focus on just two endangered species is needed. Quote from the USFWS Recovery Plan. It states that management plans should also "…improve habitat for other listed, rare or key species (plant and animal)." In terms of "actions", a planning effort or priority action on this topic must focus on more than one habitat type or species. Without biodiversity, and therefore habitat diversity, we are not accounting for all the priorities in the watershed related to this issue, nor will we be able to identify the most effective actions to pursue. A reference to the Habitat Goals document and its recommendations for the Mountain View and Coyote Creek areas would be useful.

Added a bullet under Section 7g2 regarding encouraging a focus on habitat diversity.

- 7g3 should be more specific in that the WMI will participate in stakeholder subgroups being convened by the state/regional salt pond restoration process.

Factual. Text revised accordingly.

- Chapter 9c: numbered list, item 3: since copper was found unlikely to impair South San Francisco Bay, another example would be more appropriate. The City believes that copper and nickel should no longer be a priority for the South Bay.

Added text regarding Copper not likely to impair South SF Bay, and mentioned monitoring program.

- Chapter 9d1: edit: *municipal ~~maintenance~~ activities*

  may want to add to list of URMP activities for the co-permittees: *require post construction storm water control measures for new development*

Deleted "maintenance". Did not add text about URMP activities due to lack of information/guidance.

- The mercury in the Guadalupe watershed section in 9e2 should be updated with recent information on MOU.

This was assigned to SCVWD (Sarah).

- Pages 98/99: Rewrite EDC workgroup description:

> The WMI's Endocrine Disrupting Chemicals Workgroup includes scientists, engineers, regulatory personnel, environmental advocates, water retailers, health practitioners, and community members. The workgroup reviews research about EDCs,including pathways through the watershed, studies that are being undertaken locally, the role of human activity on EDCs in the watershed, and potential ways to reduce EDCs and other emerging contaminants in our waterways.

The EDC workgroup recently changed its name and function to "Emerging Contaminants Workgroup". The workgroup will discuss and research issues related to pollutants that become recognized as new environmental concerns, such as EDCs and PBDEs.
Factual. Text revised accordingly.

- Chapter 10, box on three examples of comprehensive approach: instead of "reduce ecologically disruptive summertime freshwater discharges" use "reduce potential impacts of summertime freshwater discharges." There are some positive effects and we need to better understand the impacts of fresh water flows in the summer time and how the benefits can be maximized.

Opinion. Text revised accordingly.

- Chapter 10 should include acknowledgement of the ongoing efforts to develop a WMI workplan, continue prioritization of specific actions, and efforts to work on a structure for the WMI.

Opinion. Chapter 10 revised to include this discussion.

Suggested edits to Chapter 4:

4d.
Simple designs that use natural materials ~~are the most~~ can be reliable and ~~easiest~~ relatively easy
to maintain. Small paved areas, like driveways and walkways, can be sloped
toward lawns or landscaping. Gravel, block pavers, or permeable asphalt can
be used in place of impermeable paving.
Editorial. Text revised accordingly.

4d.
Designing sites to retain runoff is especially challenging in intensely
developed areas, in areas where clayey soils slow infiltration, in areas with high groundwater tables, and on
hillsides. Even on these sites, it may still be possible to retain runoff and let
it drain slowly away. Where there is enough space, detention basins (which
hold water long enough for many pollutants to settle out) can be used.[7,8] But
it ~~is~~ also may be possible to route runoff to lower-cost, more aesthetically pleasing
rain gardens or bioretention basins.[9] Mulch, soil, and gravel; selected pest-resistant plants
and trees, and underdrains help these landscape features effectively detain
and filter runoff ~~with minimal maintenance~~. ADD "All measures that detain or retain runoff must be operated and maintained correctly to avoid the creation of conditions that are conducive to mosquito habitat. It is important to ensure that runoff detention does not exceed 72 hours. The main goal is to avoid situations that create standing water.
Factual. Text revised accordingly.

4e.
~~One policy area to be examined is that~~ Some municipalities' current design standards, regulations,
codes, and engineering details ~~generally~~ require collection of runoff and
transport off-site~~, and~~ ; these practices may unnecessarily preclude retention and infiltration.
SCVWD can coordinate more closely with municipalities' efforts to reduce
imperviousness by improving interagency communication at the
Board/Council, management, and first-line staff levels.

Editorial. Text revised accordingly.

4f.
WMI Strategic Objective:
Promote Drainage Systems that Detain or Retain Runoff
The WMI advocates site development designs and drainage system designs that detain or retain runoff where needed to protect streams from flash runoff, erosion, and pollutants.

To meet these goals, ~~C~~cities, towns and the County should revise some of their standards for site
development and drainage systems. In areas where increased runoff could cause increased erosion of creek beds and banks, siltation, or other effects on streams, new and rebuilt sites and drainage systems should (where feasible) incorporate features to detain or retain runoff.
Editorial. Text revised accordingly.

4g. Next Steps for the WMI

4g1: WMI Actions Needed to Implement the Strategic Objective
Work with SCVURPPP to facilitate implementation of ~~the C.3. provisions in~~ the RWQCB storm water permit.
Editorial. Text to be revised accordingly.

Chapter 4, regulatory corner box at the end of the section on C.3 Revise second paragraph because HMP is not yet complete so we don't have certainty yet:

The municipalities must also ~~manage~~ address increases in peak flow and runoff volume to avoid increased erosion of creek beds and banks, siltation of streambeds, or other effects on streams. ADD "In some instances," ~~T~~this could require that future development projects be designed...
Editorial. Text revised accordingly.

Other Comments

- Overall issue: City staff prefers less conversational style and would prefer eliminating rhetorical questions and use of words such as “plethora”, “chopped down”, “sink” (use subside), “panoply”

Comment noted.

- ES-2, first paragraph, last line, “characteristic ecological communities” is unclear, should it be “native ecological communities”

Editorial. Text revised accordingly.

- ES-4, third paragraph: Instead of “As the WMI continues, they are …”, should be “As the WMI continues, it is …”

Editorial. Text revised accordingly.

- Chapter 1, third paragraph, second sentence: add “purposes” after “planning”

Editorial. Text revised accordingly.

- Chapter 1, sixth paragraph: The list of subgroups may need updating. And incorporate the concept that subgroups are formed as needed for specific issues.

Editorial. Text revised accordingly.

- Chapter 1c2, third paragraph: Instead of "new policies are enacted" either use "new policies are developed" or "new rules are enacted."

Editorial. Text revised accordingly.

- Chapter 2, particularly 2c could be shortened because with the addition of the executive summary, it becomes repetitive.

Comment noted.

- Chapter 2, top of page 8: references to "continued growth of … the economy" and "sustain economic growth" should be updated to reflect current lack of economic growth.

Opinion (looking at the very long term, the economy *is* growing). But text to be revised accordingly.

- Chapter 2 "A Question of Scale": this box is very confusing and could be deleted.

WAPTAG decided this box should be kept. Box to be revised/reformatted if time allows.

- Chapter 2, page 13, define the statement "the best experience from habitat conservation planning." Revised text to say "effective and comprehensive habitat conservation planning". Also, the Habitat Goals report should be mentioned in the last paragraph, describing chapter 7 because it already contains that maps of opportunities that are described there. Changed text to "More surveys and maps are needed"
- Chapter 3c4: Development projects that are subject to CEQA – including "some" (rather than "most") commercial and industrial developments …

Editorial. Text revised accordingly.

- Chapter 3, regulatory corner (Section 3d), CEQA process: The last paragraph of this box does not seem appropriate for a description of the CEQA process, although it is a good idea. Instead, a link to CEQA guidelines could be included. Also, add instead of "with few exemptions, all" "Unless a project is found to be exempt from CEQA review" …

For last comment, text revised as noted. **Link to CEQA guidelines will be added if time allows to find information for link.**

Formatted: Bullets and Numbering

- Table 3-1: add: Blueprint for a Sustainable Bay Area, Urban Ecology 1996, www.urbanecology.org

Editorial. Text revised accordingly. Added description of report.

- Table 3-3: move the statement about cities into the list of the table, rather than in the note at the bottom.

Editorial. Comment noted.

- Chapter 3d, page 27: the paragraphs starting with "creation of appropriate incentives" and "consistent with detailed General Plans" are repetitive.

WAPTAG decided these paragraphs are not repetitive. No revision made.

- Chapter 4d, page 31, fourth paragraph, the last sentence has issues with sentence structure and should be reworded ("make controls runoff from state highways optional")

Editorial. Text revised accordingly.

- Chapter 6a, end of first paragraph should be "to live, …" rather than "for live…"

Editorial. Text revised accordingly.

- Chapter 6d5: two last paragraphs: update on number of customers (will be provided).

Factual. Still waiting on correct # of customers; text not revised.

- Chapter 6e should mention the SBWR collaborative effort between the District and the City, which is separate from the IWRP process.

In 2nd paragraph of 63, added "San Jose and SCVWMD should continue its joint South Bay Water Resources collaborative process."

- Chapter 7, third paragraph: clarify "and enough resources"

Deleted "enough" and mentioned recognizing resource limitations.

- Chapter 8f2: the fourth bullet in the bullet list for the WAR: the point the example is making is unclear.

Revised to make it more clear.

- Chapter 9c: second paragraph: should be "key indicators …improved" instead of "rebounded"

Editorial. Text revised accordingly.

- 9c: The three examples are all related to Urban Runoff pollutants and their interaction with sediment. This does not show as much diversity as the intro would suggest.

WAPTAG decided examples are sufficietnly diverse. Text not revised.

- Page 97/98 could mention the WMI's trash workgroup.

Assigned to Sarah Young to submit information if time allows.

- 9f1: description of how to do future watershed assessments: change second sentence in second paragraph to: "prioritization criteria might include …"

Editorial. Text revised accordingly.

- Chapter 10: the outreach section seems out of place and too specific for this final chapter. Could be shortened.

WAPTAG decided to leave Outreach section in Chapter 10.

- Various places: the word "lead" is used where "led" should be used

Typo. Text revised on pages 104, 107, and 108.